

T-1137

REPORT ON STUDY OF THE FEASIBILITY OF EXTENDING
DIRECT PAY
BY COMPANIES TO OWNERS OF INDIAN ALLOTTED
OIL AND GAS LEASES

FOREWORD

The United States Department of the Interior (DOI) is seeking the most efficient method of making timely and accurate mineral lease revenue payments within available resources to owners of interests in restricted Indian lands. Revenues for some allotted leases are paid by the company directly to the allottee, when authorized by DOI. The same is done for a few tribal leases. This method is known as direct pay. A review of the advantages and disadvantages of the direct pay method to individual Indian and tribal owners, industry payors, and the Government was undertaken to determine its cost-effectiveness compared to the other payment method currently utilized. Under the other method, the Government collects revenues and reports from payors, reviews them for accuracy, records them in an automated accounting system, and disburses revenues to tribes and allottees. Although Government handling delays receipt of revenues by tribes and allottees compared to the time payments could be received directly from payor companies, receipt by the Government affords the opportunity for the Government to carry out preliminary verification of the accuracy of payor reports and payments. Postaudit is also done on accounts paid under both methods as a routine matter. The scope of this study is limited to these two methods.

I. BACKGROUND

An understanding of the context within which payments to owners of Indian land are made is necessary to follow a discussion of the relative merits to the Government, tribes, allottees, and industry of the two methods studied. The material below provides general background information.

A. Trust or Restricted Status Lands

The Secretary of the Interior has special responsibilities with regard to lands held in restricted or trust status for Indian tribes and allottees. The ability of the Secretary to meet his responsibility to Indian oil and gas lessors is an important consideration in this study. Revenues from mineral leasing are important to many tribes; for some individual allottees, these revenues constitute the majority of their income. In many cases, revenues from Indian lands held in trust have been considered exempt from taxation. Although it has been possible for a number of years for allottees to have restrictions on their lands removed by petitioning the Bureau of Indian Affairs (BIA), few allottees have done this. Removal of restrictions permits allottees to hold title in fee to their own land and resources and permits them to manage the land and resources themselves. As very few allottees avail themselves of this

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The BLM, in addition to supervising operations on Indian oil and gas leases, supervises Federal onshore oil and gas, geothermal, and solid mineral leases within the framework of a multi-purpose land management program which also includes recreational, wilderness, and agricultural uses.

2. Indian Lease Administration Data

In fiscal year 1985, Indian owners of oil and gas leases administered by DOI (exclusive of the Osage Nation) received about \$132 million in revenues from 20,000 leases. Of the approximately 4,500 producing Indian oil and gas leases, about 1,500 are tribal leases and 3,000 are owned by the 28,000 individuals comprising the surviving original allottees and their heirs. Approximately 336 companies now pay on the 3,000 producing allotted mineral leases in which about 28,000 allottees hold about 55,000 individual interests; about 65 of these companies now pay approximately 1,000 (or 3.5 percent) of these allottees directly, rather than through MMS and BIA. The 28,000 individual owners are paid on leases administered by various BIA offices. The breakdown of allottee-owners relative to the administering BIA office is shown in Illustration B. The offices with the largest workload are Navajo (12,275 allottees), Anadarko (7,500 allottees), and Muskogee (4,200 allottees). In Muskogee, 1,000 of the 4,200 allottees receive their royalties directly from industry payors. Some allottees holding interests in a given lease may be paid directly by companies while others holding interests in the same lease may be paid by DOI.

The fact that the 28,000 individual owners hold a total of at least 55,000 interests is significant because it represents a serious data base update workload for whichever entity disburses oil and gas revenues to allottees. The data base must be updated monthly because it contains reference information essential to correct payment of allottee/owners, such as name, percentage of ownership for each allottee in each lease in which she/he has an interest (division of interest), royalty rates, and address to which checks should be mailed. Some of this information, such as address, can change often. It is also critical that other information, such as change of allottee ownership interest, be obtained as soon as possible.

II. PROCEDURES FOR PROCESSING INDIAN OIL AND GAS REVENUE PAYMENTS AND REPORTS ARE FRAGMENTED

In addition to responsibility for certain functions relating to Indian oil and gas leases being located in their entirety in one DOI bureau or another, the function that is the subject of this report (collection and disbursement of Indian mineral lease revenues) is fragmented among two bureaus. The MMS carries the collection and accounting for revenues to a certain point and then turns over revenues (through Treasury accounts) and internally generated

late payments. Additional exception processing modules to identify nonrespondents and underpayments are scheduled for implementation soon for payments received by MMS. The AFS also calculates and bills companies for any interest payable by the company for late payments.

Optimum AFS processing time (on the current VAX computer hardware) is about 2 weeks, and approximately 80 percent of the funds associated with lines of payor-submitted information on Indian leases clear the AFS within the 2-week time. The 2-week processing time will be reduced after reimplementation of the AFS on new IBM hardware. This is scheduled to be accomplished by early 1987. Although 80 percent of the lines of payor-submitted information on Indian leases pass AFS edits within 2 weeks, there is a delay for the 20 percent which don't pass while the reason for the rejection is researched and resolved with the payor. Some of the reasons for rejected payor data are fairly routine and quickly resolved, such as an incorrect payor name or identification code. If the problem is difficult to resolve, however, funds will remain unavailable to the allottee (although in the BIA-maintained aggregate account) until the problem is resolved and the information can be processed through the AFS.

Generally, payors have until the last day of the month after the month of sales to submit payments to MMS; this results in approximately 93 percent of the Indian revenues and supporting MMS-2014 being received during the last 3 days of that month. Therefore, the MMS can rarely make IFDR's available to BIA to use in calculating disbursements to allottees sooner than 45 days after the end of the month of sale.

E. Processing by MMS When MMS Does Not Receive the Revenues (Direct Pay)

A few tribal payments are made by a check sent to a lockbox maintained by a bank on behalf of a tribe. Again, the payment may cover as many leases as the payor owes royalties on for a given tribe. The payor must also submit a MMS-2014, but the matching of reports and revenues described in II(D) above obviously cannot be done when the Government does not receive the cash. Money becomes available to tribes or to BIA for investment on their behalf only a day or two faster under this method.

For allotted payments, the only currently implemented alternative to MMS receiving the money is direct payments from companies to allottees. Although companies paying allottees directly must file with MMS the MMS-2014 describing what payments are being made for each lease, there is less internal fiscal control in this situation. The MMS cannot verify (as it does when MMS receives the money) that payments received from companies match the amounts companies have reported as paid on the MMS-2014 and that all revenues were received on time by allottees, as required by FOGRMA. Therefore, if direct pay were implemented for all Indian leases,